IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

WP(C).No. 6418 of 2005(L)

OS.738/2004 of PRL.M.C.,ERNAKULAM
.....

PETITIONER:

SABU.K.A. S/O.ANTONY, AGED 33 YEARS,
KODIYATH HOUSE, KALOOR, KOCHI 17, KALOOR DESOM,
ERNAKULAM VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT.

BY ADV. SRI.JOHN JOSEPH(ROY)

RESPONDENT:

XAVIER, AGED 56 YEARS,
S/O.ABRAHAM, DOCUMENT WRITER, MUDAVASSERY HOUSE,
KALOOR KOCHI 17, KALOOR DESOM, KANAYANNOOR TALUK,
ERNAKULAM DISTRICT.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC : 6418 OF 2005

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE ORDER IN IA NO.10195/04 IN OS NO.738/04 DT.11.1.05 OF THE PRINCIPAL MUNSIFF'S COURT, ERNAKULAM.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 6418 OF 2005

Dated this the 14th day of June, 2007

JUDGMENT

Ext.P1 order rejecting an application seeking review of an earlier order of the learned Munsiff rejecting the written statement filed by the petitioner on the reason that the same has been filed beyond 90 days of receiving summons is under challenge. Mr.John Joseph, counsel for the petitioner submits that the reality is that the petitioner had not received summons. Whatever that be, even if the written statement was filed beyond 90 days of receiving summons, the issue is covered by the judgment of the Supreme Court in **Kailash v. Nanhku** [2005 (2) KLT 623 SC]. Accordingly, I set aside Ext.P1 and direct the learned Munsiff to accept the written statement filed by the petitioner on file, to formulate issues on the basis of that written statement and to try the suit and dispose of the same in accordance with law.

PIUS C. KURIAKOSE, JUDGE

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